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COMPANY LIMITED BY SHARES

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MEMORANDUM OF ASSOCIATION

OF

UMBRO PLC



1. The Company's name is Umbro plc.<sup>1</sup>
2. The Company is to be a public company.<sup>2</sup>
3. The Company's Registered Office is to be situated in England & Wales.
- 4.1 The Company's objects are:

4.1.1 To carry on the business of a finance and investment company in all its branches, and to acquire by purchase, lease, concession, grant, licence or otherwise such businesses, options, rights, privileges, lands, buildings, leases, underleases, stocks, shares, debentures, debenture stock, bonds, obligations, securities, reversionary interests, annuities, policies of assurance and other property and rights and interests in property as the Company shall deem fit and generally to hold, manage, develop, lease, sell or dispose of the same and to vary any of the investments of the Company, to act as trustees of any deeds constituting or securing any debentures, debenture stock or other securities or obligations, to construct, reconstruct, alter, improve, decorate, furnish and maintain offices, houses, flats, apartments, services suites, hotels, shops, factories, warehouses, buildings, garages, works and conveniences of all kinds, to consolidate or connect or subdivide properties and to lease or otherwise dispose of the same, and to advance money to and enter into contracts with builders, tenants and others and generally to finance building operations of every description, and to manage any land, buildings or other property as aforesaid, whether belonging to the Company or not, and to collect rents and income, to undertake and provide management, administration and consultancy services of all kinds and to enter into, assist or participate in financial, commercial, mercantile, industrial and other transactions, undertakings and businesses of every description, and to establish, carry on, develop and extend the same or sell, dispose of or otherwise turn the same to account, and to ordinate the policy and administration of any companies of which this Company is a Member or which are in any manner controlled by, or connected with this Company.<sup>3</sup>

4.1.2 To carry on any other trade or business whatever which can in the opinion of the Board of Directors be advantageously carried on in connection with or ancillary to any of the business of the Company.

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<sup>1</sup> The Company changed its name and became a public company by special resolution on 11 May 2004.

<sup>2</sup> This clause was inserted and subsequent clauses renumbered by special resolution on 11 May 2004.

<sup>3</sup> This clause was altered by special resolution on 31 March 1999.

4.2 Without prejudice to clause 4.1 above the Company has power to do all or any of the following things:

4.2.1 To purchase or by any other means acquire and take options over any property whatever, and any rights or privileges of any kind over or in respect of any property.

4.2.2 To apply for, register, purchase, or by other means acquire and protect, prolong and renew, whether in the United Kingdom or elsewhere, any trade marks, patents, copyrights, trade secrets, or other intellectual property rights, licences, secret processes, designs, protections and concessions and to disclaim, alter, modify, use and turn to account and to manufacture under or grant licences or privileges in respect of the same, and to expend money in experimenting upon, testing and improving any patents, inventions or rights which the Company may acquire or propose to acquire.

4.2.3 To acquire or undertake the whole or any part of the business, goodwill, and assets of any person, firm, or company carrying on or proposing to carry on any of the businesses which the Company is authorised to carry on and as part of the consideration for such acquisition to undertake all or any of the liabilities of such person, firm or company, or to acquire an interest in, amalgamate with, or enter into partnership or into any arrangement for sharing profits, or for co-operation, or for mutual assistance with any such person, firm or company, or for subsidising or otherwise assisting any such person, firm or company, and to give or accept, by way of consideration for any of the acts or things aforesaid or property acquired, any shares, debentures, debenture stock or securities that may be agreed upon, and to hold and retain, or sell, mortgage and deal with any shares, debentures, debenture stock or securities so received.

4.2.4 To improve, manage, construct, repair, develop, exchange, let on lease or otherwise, mortgage, charge, sell, dispose of, turn to account, grant licences, options, rights and privileges in respect of, or otherwise deal with all or any part of the property and rights of the Company.

4.2.5 To invest and deal with the moneys of the Company not immediately required in such manner as may from time to time be determined and to hold or otherwise deal with any investments made.

4.2.6 To lend and advance money or give credit on any terms and with or without security to any person, firm or company (including without prejudice to the generality of the foregoing any holding company, subsidiary or fellow subsidiary of, or any other company associated in any way with, the Company), to enter into guarantees, contracts of indemnity and suretyships of all kinds, to receive money on deposit or loan upon any terms, and to secure or guarantee in any manner and upon any terms the payment of any sum of money or the performance of any obligation by any person, firm or company (including without prejudice to the generality of the foregoing any such holding company, subsidiary, fellow subsidiary or associated company as aforesaid).

4.2.7 To borrow and raise money in any manner and to secure the repayment of any money borrowed, raised or owing by mortgage, charge, standard security, lien or other security upon the whole or any part of the Company's property or assets (whether present or future), including its uncalled capital, and also by a similar mortgage, charge, standard security, lien or security to secure and guarantee the performance by the Company of any obligation or liability it may undertake or which may become binding on it.

4.2.8 To draw, make, accept, endorse, discount, negotiate, execute and issue cheques, bills of exchange, promissory notes, bills of lading, warrants, debentures, and other negotiable or transferable instruments.

4.2.9 To apply for, promote, and obtain any Act of Parliament, order, or licence of the Department of Trade or other authority for enabling the Company to carry any of its objects into effect, or for effecting any modification of the Company's constitution, or for any other purpose which may seem calculated directly or indirectly to promote the Company's interests, and to oppose any proceedings or applications which may seem calculated directly or indirectly to prejudice the Company's interests.

4.2.10 To enter into any arrangements with any government or authority (supreme, municipal, local, or otherwise) that may seem conducive to the attainment of the Company's objects or any of them, and to obtain from any such government or authority any charters, decrees, rights, privileges or concessions which the Company may think desirable and to carry out, exercise, and comply with any such charters, decrees, rights, privileges, and concessions.

4.2.11 To subscribe for, take, purchase, or otherwise acquire, hold, sell, deal with and dispose of, place and underwrite shares, stocks, debentures, debenture stocks, bonds, obligations or securities issued or guaranteed by any other company constituted or carrying on business in any part of the world, and debentures, debenture stocks, bonds, obligations or securities issued or guaranteed by any government or authority, municipal, local or otherwise, in any part of the world.

4.2.12 To control, manage, finance, subsidise, co-ordinate or otherwise assist any company or companies in which the Company has a direct or indirect financial interest, to provide secretarial, administrative, technical, commercial and other services and facilities of all kinds for any such company or companies and to make payments by way of subvention or otherwise and any other arrangements which may seem desirable with respect to any business or operations of or generally with respect to any such company or companies.

4.2.13 To promote any other company for the purpose of acquiring the whole or any part of the business or property or undertaking or any of the liabilities of the Company, or of undertaking any business or operations which may appear likely to assist or benefit the Company or to enhance the value of any property or business of the Company, and to place or guarantee the placing of, underwrite, subscribe for, or otherwise acquire all or any part of the shares or securities of any such company as aforesaid.

4.2.14 To sell or otherwise dispose of the whole or any part of the business or property of the Company, either together or in portions, for such consideration as the Company may think fit, and in particular for shares, debentures, or securities of any company purchasing the same.

4.2.15 To act as agents or brokers and as trustees for any person, firm or company, and to undertake and perform sub-contracts.

4.2.16 To remunerate any person, firm or company rendering services to the Company either by cash payment or by the allotment of shares or other securities of the Company credited as paid up in full or in part or otherwise as may be thought expedient.

4.2.17 To distribute among the members of the Company in kind any property of the Company of whatever nature.

4.2.18 To pay all or any expenses incurred in connection with the promotion, formation and incorporation of the Company, or to contract with any person, firm or company to pay the same, and to pay commissions to brokers and others for underwriting, placing, selling, or guaranteeing the subscription of any shares or other securities of the Company.

4.2.19 To support and subscribe to any charitable or public object and to support and subscribe to any institution, society, or club which may be for the benefit of the Company or its directors or employees, or may be connected with any town or place where the Company carries on business; to give or award pensions, annuities, gratuities, and superannuation or other allowances or benefits or charitable aid and generally to provide advantages, facilities and services for any persons who are or have been directors of, or who are or have been employed by, or who are serving or have served the Company, or any company which is a subsidiary of the Company or the holding company of the Company or a fellow subsidiary of the Company or the predecessors in business of the Company or of any such subsidiary, holding or fellow subsidiary company and to the wives, widows, children and other relatives and dependants of such persons; to make payments towards insurance including insurance for any director, officer or auditor against any liability in respect of any negligence, default, breach of duty or breach of trust (so far as permitted by law); and to set up, establish, support and maintain superannuation and other funds or schemes (whether contributory or non-contributory) for the benefit of any of such persons and of their wives, widows, children and other relatives and dependants; and to set up, establish, support and maintain profit sharing or share purchase schemes for the benefit of any of the employees of the Company or of any such subsidiary, holding or fellow subsidiary company and to lend money to any such employees or to trustees on their behalf to enable any such schemes to be established or maintained.

4.2.20 Subject to and in accordance with the provisions of the Act (if and so far as such provisions shall be applicable) to give, directly or indirectly, financial assistance for the acquisition of shares or other securities of the Company or of any other company or for the reduction or discharge of any liability incurred in respect of such acquisition.

4.2.21 To procure the Company to be registered or recognised in any part of the world.

4.2.22 To do all or any of the things or matters aforesaid in any part of the world and either as principals, agents, contractors or otherwise, and by or through agents, brokers, sub-contractors or otherwise and either alone or in conjunction with others.

4.2.23 To do all such other things as may be deemed incidental or conducive to the attainment of the Company's objects or any of them.

4.2.24 AND so that:

4.2.24.1 None of the provisions set forth in any sub-clause of this clause shall be restrictively construed but the widest interpretation shall be given to each such provision, and none of such provisions shall, except where the context expressly so requires, be in any way limited or restricted by reference to or inference from any other provision set forth in such sub-clause, or by reference to or inference from the terms of any other sub-clause of this clause, or by reference to or inference from the name of the Company.

4.2.24.2 The word "company" in this clause, except where used in reference to the Company, shall be deemed to include any partnership or other body of persons, whether incorporated or unincorporated and whether domiciled in the United Kingdom or elsewhere.

4.2.24.3 In this clause the expression the "Act" means the Companies Act 1985, but so that any reference in this clause to any provision of the Act shall be deemed to include a reference to any statutory modification or re-enactment of that provision for the time being in force.

5. The liability of the Members is limited.

6. The Company's share capital is £100,004,100, divided into 20,000,000 "A" Ordinary Shares of 0.01p each, 21,000,000 "B" Ordinary Shares of 0.01p each, and 100,000,000 Preference Shares of £1 each.<sup>4</sup>

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<sup>4</sup> The Company's share capital was changed by special resolution on 23 April 1999.  
LIB01/C1SJT/1314729.01

THE COMPANIES ACT 1985

**A Public Company Limited by Shares**

**New**  
**Articles of Association**  
(adopted by Special Resolution  
passed on 11 May 2004)

of

Umbro plc  
(registered number 3674789)

**1. REGULATIONS OF THE COMPANY**

- 1.1 The articles comprise these Articles and, save in so far as it is modified by these Articles, Table A (which expression means that Table as prescribed by regulations made pursuant to the Companies Act 1985 and in force on the date of adoption of these Articles).
- 1.2 Regulations 8, 24, 25, 50, 53, 54, 60-62 (inclusive), 64 to 69 (inclusive), 73-78 (inclusive), 80, 82, 87, 89, 100, 109 and 118 in Table A do not apply to the Company.

**2. INTERPRETATION**

Unless the context otherwise requires:

- (a) words denoting the singular number shall include the plural number and vice-versa;
- (b) words denoting the masculine gender shall include the feminine and neuter genders and vice versa; and
- (c) references to persons shall include bodies corporate, unincorporated associations and partnerships.

**3. DEFINITIONS**

- 3.1 In these Articles unless the context otherwise requires the words standing in the first column of the following table bear the meanings set opposite them respectively in the second column:

<b>Expression</b>	<b>Meaning</b>
"Act"	the Companies Act 1985 (as amended from time to time);
""A" Shareholders"	the holders for the time being of "A" Ordinary Shares;
""A" Ordinary Shares"	the "A" Ordinary Shares of 0.01p each in the capital of the Company;

"Auditors"	the auditors for the time being of the Company;
"Board"	the board of directors for the time being of the Company;
""B" Shareholders"	the holders for the time being of "B" Ordinary Shares;
""B" Ordinary Shares"	the "B" Ordinary Shares of 0.01p each in the capital of the Company;
"Controlling Interest"	an interest (within the meaning of Schedule 13 Part I and s 24 of the Act) in shares in the Company conferring in the aggregate 30 per cent or more of the total voting rights conferred by all the issued shares in the Company;
"Fair Value"	The fair value of a share computed in accordance with Article 14.3(i);
"Family Trust"	<p>in relation to any "A" Shareholder or any employee or director of the Company or any of its subsidiaries a trust, whether arising under:</p> <ul style="list-style-type: none"><li>(a) a settlement inter vivos; or</li><li>(b) a testamentary disposition by whomsoever made; or</li><li>(c) on intestacy;</li></ul> <p>in respect of which shares in the Company are held under which no beneficial interest in the shares in question is for the time being vested in any person other than the member concerned or a Privileged Relation of such member and no power of control over the voting powers conferred by such shares is for the time being exercisable by or subject to the consent of any person other than the trustees or the member concerned or a Privileged Relation of such member;</p>
"Fixed Dividend"	the dividend payable on the Preference Shares in accordance with Article 5.1(a);
"Group"	the Company and its subsidiaries from time to time;
"Investment Agreement"	the Agreement dated 1 April 1999 between the Managers (as defined therein), the Investors (as defined therein), the Company and others;
"Investors"	the persons listed in Schedule II of the Investment Agreement and any person who is named an Investor in a Deed of Adherence (as defined therein), in each case while it is a party to the Investment Agreement;

"Listing"	<p>(a) the listing of the Company's Ordinary Shares on London Stock Exchange Limited becoming effective; or</p> <p>(b) the granting of an application by the Company for the dealing in any of the Company's Ordinary Shares on any other public securities market whereby such Shares can be freely traded and the approval for such dealing becoming effective;</p> <p>whether such listing or admission to trading is effected by way of an offer for sale, a new issue of shares, an introduction, a placing or otherwise;</p>
"Loan Agreements"	the agreements dated 1 April 1999 between the Company and Salomon Smith Barney as Arranger, BNY International Limited as Agent and Security Trustee, Bank of New York, London Branch as BBF Bank amongst others in relation to the term loan facility and the borrowing base facility and the Company as borrower, with Salomon Smith Barney as Arranger, Citibank International plc as Agent, BNY International Limited as Security Trustee amongst others in relation to the mezzanine facility and all other documents relating to the provision of such facilities to the Company;
"Ordinary Shareholders"	the holders for the time being of Ordinary Shares;
"Ordinary Shares"	the Ordinary Shares of 0.01p each in the capital of the Company arising out of conversion of the "A" Ordinary Shares or the "B" Ordinary Shares as the case may be;
"Pounds" or "£"	the lawful currency of the United Kingdom;
"Preference Shareholders"	the holders for the time being of the Preference Shares;
"Preference Shares"	the 10% Cumulative Redeemable Preference Shares of £1 each in the capital of the Company;
"Privileged Relation"	the wife or husband or child or grandchild (including any adopted child or stepchild or step grandchild) of a member of the Company;
"Qualifying Institution"	any person who manages a collective investment scheme or who manages funds on its own behalf or for clients on a discretionary basis;
"Sale"	<p>(a) the sale of any interest in the shares of the Company to any person or group (whether in one transaction or a series of transactions) resulting in that person or group alone or together with persons acting in concert with such person or group (as defined by the City</p>



Code on Take-Overs and Mergers) holding the right to exercise more than 50% of the voting rights at any general meeting of the Company but for the purpose of these Articles none of the shareholders of the Company at the date of the adoption of these Articles shall be deemed to be acting in concert; or

- (b) all the sale, transfer or other disposal (other than from one wholly-owned subsidiary to another or from or to the Company to or from the wholly-owned subsidiary) of substantially the whole of the undertaking, assets and property of the Group;

"Shares" shares issued by the Company from time to time;

"Special Director" a director appointed pursuant to Article 26.1;

"Specified Date" (a) the date of Listing;

(b) the date upon which an agreement or agreements for a Sale is or are unconditional in all respects;

"Specified Majority" the holders of 51 per cent in nominal value of the "B" Ordinary Shares for the time being in issue;

"Transfer Notice" as defined in Article 14;

"Warrants" the warrants issued by the Company to the Mezzanine Financiers.

"Warrant Shares" the "B" Ordinary Shares to be issued pursuant to the exercise of the Warrants;

3.2 Save where the context otherwise requires words and phrases defined in the Act shall have the same meaning herein.

#### 4. SHARE CAPITAL

4.1 The share capital of the Company at the date of the adoption of these Articles is divided into:

- (a) 100,000,000 Preference Shares of £1 each;
- (b) 20,000,000 "A" Ordinary Shares of 0.01p each; and
- (c) 21,000,000 "B" Ordinary Shares of 0.01p each.

4.2 Each of the Preference Shares, "A" Ordinary Shares, the "B" Ordinary Shares and/or (following conversions of the "B" Ordinary Shares or "A" Ordinary Shares as the case may be) the Ordinary Shares shall constitute separate classes of Shares.

4.3 Subject to the special rights set out in Article 6.2(d), in the event of the proposed issue of further Shares, such shares shall be first offered by notice in writing to the "A" Ordinary Shareholders, the "B" Ordinary Shareholders and the holders of the Warrants inviting them to subscribe for the

relevant class of additional shares as nearly as may be in proportion to the number of the existing issued "A" Ordinary Shares or "B" Ordinary Shares held by them (assuming an exercise of all of the Warrants), and setting out the terms upon which such further subscription may be made. Every such invitation shall be open for acceptance in whole or in part within 21 days from the date of its despatch. At the expiration of such 21 day period, the relevant number of Shares in respect of which acceptances have been validly received may be allotted to accepting "A" Ordinary Shareholders "B" Ordinary Shareholders and the holders of the Warrants on the terms set out in the invitation to subscribe for the Shares.

## **5. Rights and restrictions attaching to shares**

The rights and restrictions attaching to the respective classes of shares shall be as follows.

### **5.1 Income**

The profits which are available for distribution (including retained distributable profits) shall be applied:

- (a) first, in paying to the holders of the Preference Shares from time to time in issue a fixed cumulative preferential net cash dividend (the "Fixed Dividend") at the rate of 10 per cent per annum on the amount paid up or credited as paid up thereon (together with any premium paid at the date of issue) and any accrued but unpaid Fixed Dividends, the same to be distributed amongst them according to the amounts paid up or credited as paid up thereon and to accrue on a daily basis and to be payable on the earlier of the Specified Date and 31 December 2008 in respect of the period from the date of issue to such date and it is hereby expressly provided that:
  - (i) the Fixed Dividend shall be paid at the rates mentioned together with (and not inclusive of) the associated tax credit at the rate from time to time prevailing; and
  - (ii) all dividends shall be due and payable on the dates or at the times herein stipulated and notwithstanding the fact that the same are expressed to be, and shall in the event of their not being paid be, 'cumulative', the amounts due and payable on such dates or at such times shall ipso facto and without any resolution of the directors or the Company in general meeting (and notwithstanding anything contained in Regulations 102 to 105 (inclusive) of Table A) become a debt due from and immediately payable by the Company to the Preference Shareholders entitled to such dividends subject to there being profits out of which the same may lawfully be paid;
- (b) second, amongst the "A" Ordinary Shareholders and the "B" Ordinary Shareholders *pari passu* as if the "A" Ordinary Shares and the "B" Ordinary Shares constituted one class of shares according to the nominal value of "A" Ordinary Shares and the "B" Ordinary Shares (including the premium, if any, paid on the issue thereof) held by them respectively.

### **5.2 As regards capital**

In the event of a winding up of the Company or upon a reduction or return of capital, the assets of the Company remaining after payment of its debts and liabilities and of the costs, charges and expenses of such winding up or reduction or return of capital shall be applied in the following manner and order of priority:

- (a) first, in paying to the Preference Shareholders a sum equal to all unpaid arrears or accruals of any Fixed Dividend (whether declared or not) calculated down to and

including the date of repayment followed by the amount paid up or credited as paid up on each such share (including the premium (if any));

- (b) secondly, amongst the Ordinary Shareholders (or "A" Ordinary Shareholders and "B" Ordinary Shareholders as the case may be) the amount paid up or credited as paid up on such shares (including the premium (if any)) held by them and as if they were all holders of shares of the same class; and
- (c) thirdly, the balance (if any) amongst the Ordinary Shareholders (or "A" Ordinary Shareholders and "B" Ordinary Shareholders as the case may be) the same to be distributed according to the amounts paid up or credited as paid up on such shares (including the premium (if any)) held by them and as if they were all holders of shares of the same class.

### **5.3 As regards redemption**

- (a) The Company shall on the earlier of the Specified Date and 31 December 2008 (or as soon thereafter as the law permits) redeem the Preference Shares for the time being issued and outstanding;
- (b) Twenty eight days (or such lesser period as shall be agreed between the Company and the holder of the majority of the Preference Shares then in issue) prior to redemption of any Preference Shares under subclause 5.3(a), the Company shall give notice to the Preference Shareholders specifying the total amount of Preference Shares to be redeemed on that occasion, the method by which this was calculated, the number of such holder's Preference Shares to be redeemed in accordance with subclause 5.3(c), the applicable redemption date and place at which the certificate of such shares are to be procured for the redemption. Upon such redemption date each of the Preference Shareholders shall be bound to deliver to the Company at such place the certificates for such of the Shares concerned as are held by him. Upon such delivery of the certificates the Company shall pay to such holder the amount due to him in respect of such redemption. If any certificate so delivered to the Company includes any Preference Shares not to be redeemed on the relevant redemption date, a fresh certificate for such Shares shall be issued free of charge to the holder delivering such certificate to the Company.
- (c) The Preference Shares to be redeemed on any occasion shall be selected, as nearly as may be, pro rata from the holdings of each Preference Shareholder.
- (d) On each such redemption the holders of the Redeemable Preference Shares being redeemed shall be paid the sum of £1 per Preference Share together with a sum equal to any arrears or deficiency or accruals of dividend (whether earned or declared or not) calculated to and including the date of such redemption.

### **5.4 As regards consistency with the Loan Agreements**

Notwithstanding anything else in these Articles, the payment of dividends on all classes of the shares and (if applicable) the redemption or purchase of any class of shares, shall be made only if and to the extent permitted by the Loan Agreements. If the payment of all or any part of such dividend cannot be paid by virtue of the Loan Agreements, then no such payment shall be made but the unpaid portion shall remain a debt due from the company to the relevant shareholder and the non-payment shall be without prejudice to any provisions of these Articles specifying the consequences of any such non payment.

## 5.5 As regards conversion

### (a) Conversion of A Ordinary Shares into Ordinary Shares

If on the Specified Date there are in issue any "A" Ordinary Shares they shall, on the business day immediately prior to a Specified Date, automatically be converted into and be re-designated Ordinary Shares on the basis of one Ordinary Share for each "A" Ordinary Share.

### (b) Conversion of B Ordinary Shares into Ordinary Shares

If on the Specified Date there are in issue any "B" Ordinary shares they shall, on the business day immediately prior to a Specified Date, automatically be converted into and be re-designated Ordinary Shares on the basis of one Ordinary Share for each "B" Ordinary Share.

### (c) Generally

The Ordinary Shares resulting from such conversion in (a) or (b) above shall rank for the full amount of all dividends on the Ordinary Shares paid by reference to a record date after or declared or resolved to be paid after the Specified Date and otherwise *pari passu* with the Ordinary Shares and shall in all respects constitute one class of share.

## 5.6 As regards voting

- (a) Subject to any special rights or restrictions as to voting attached by or in accordance with these Articles to any class of shares, on a show of hands every member who is present in person shall have one vote and on a poll every member who is present in person or by proxy shall have one vote for every share of which he is the holder.
- (b) Preference Shares shall entitle the holder to receive notice of and attend any General Meeting but shall not entitle the holder to vote upon any resolution other than a resolution for winding up the Company or reducing its share capital or a resolution directly or adversely varying or abrogating any of the special rights attached to such shares unless at the date of the notice convening the meeting at which such resolution is to be proposed the dividend on such shares or a payment under Article 5.3 is more than six months in arrears.

## 6. CLASS RIGHTS

- 6.1 Whenever the capital of the Company is divided into different classes of shares the special rights attached to any class of shares may be varied or abrogated, either whilst the Company is a going concern or during or in contemplation of a winding-up, with the consent in writing of the holders of 51% of the issued shares of that class, or with the sanction of a resolution passed at a separate meeting of the holders of the shares of that class subject, in each case, to a 75% majority being required in the circumstances set out in the Act, but not otherwise. To every such separate meeting all the provisions of these Articles relating to general meetings of the Company or to the proceedings thereat shall, *mutatis mutandis*, apply, save that the necessary quorum shall be two persons at least holding or representing by proxy one third in nominal amount of the issued shares of the class (but so that if at any adjourned meeting of such holders a quorum as above defined is not present those members who are present shall be a quorum and where there is only one person holding shares of that class that sole shareholder shall be a quorum), and that the holders of shares of the class shall, on a poll, have one vote in respect of every share of the class held by them respectively.

6.2 Without prejudice to the generality of this Article the special rights attached to the "B" Ordinary Shares as the case may be shall be deemed to be varied:

- (a) by any alteration to the Memorandum or Articles of Association of the Company; or
- (b) by any alteration, increase, reduction, subdivision consolidation or other variation of any of the rights attached to any of the shares for the time being in the capital of the Company or of any of its subsidiaries or the reduction in the amount, if any, and standing to the credit of the share premium account or capital redemption reserve fund of the Company or any of its subsidiaries except as expressly provided in or permitted by these Articles; or
- (c) by the creation of any shares other than the Preference Shares, "A" Ordinary Shares, the "B" Ordinary Shares and (by conversion in accordance with these Articles) the Ordinary Shares; or
- (d) by the grant of any right to require the allotment or issue of any shares or securities in the Company (other than the creation, allotment or issue of any shares or securities on the date of adoption of these Articles or as expressly provided for or permitted by the Investment Agreement or the Warrants); or
- (e) by the sale or transfer or other disposal (other than from one wholly owned subsidiary to another or from or to the Company to or from a wholly owned Subsidiary) of the undertaking, assets or property of the Company or of any of its subsidiaries or any substantial part thereof; or
- (f) by any alteration or relaxation of the restrictions on the powers of the directors of the Company or any of its subsidiaries to borrow or give guarantees or create any mortgage or charge contained in Article 27 hereof or in the Articles of Association of any subsidiary of the Company; or
- (g) by any change in the accounting reference date or the auditors for the time being of the Company; or
- (h) by the application by way of capitalisation of any sum in or towards paying any debenture or debenture stock (whether secured or unsecured) of the Company; or
- (i) by any material alteration to the structure of the business of the Company or of any of its subsidiaries or its cessation to a material extent; or
- (j) by the purchase or other acquisition by the Company or any of its subsidiaries of any share capital of the Company (but not including redemption of shares in accordance with these Articles); or
- (k) by the passing of a resolution for the winding-up of the Company or any of its subsidiaries; or
- (l) by any Listing or Sale.

6.3 The rights conferred upon the holders of shares of any class shall not, unless otherwise expressly provided by the terms of the shares of that class, be deemed varied by the creation or issue of further shares ranking in priority to or *pari passu* therewith.

**7. ALLOTMENT OF SHARES**

- 7.1 Subject to paragraph 7.4 of this Article the directors shall not without the authority of the Company in general meeting and any consents required pursuant to Article 6.2 allot any of the shares in the capital of the Company.
- 7.2 Where authority has been given to the directors as referred to in paragraph 7.1 of this Article to allot shares the directors may subject to the terms of such authority and subject to any terms on which any shares are created or issued and in accordance with this Article allot shares provided that no shares shall be issued at a discount contrary to the Act.
- 7.3 In the foregoing paragraphs of this Article references to allotment of shares shall include references to the grant of any right to subscribe for, or to convert any security into, shares.
- 7.4 Where authority has been given to the directors as referred to in this Article to grant a right to subscribe for, or to convert any security into, shares the directors shall allot such shares as may be required to be allotted pursuant to the exercise of such right.

**8. REDEEMABLE SHARES**

In Regulation 3 in Table A there shall be inserted after the words "provided by the articles" the following words, namely: "or by special resolution".

**9. PURCHASE OF OWN SHARES**

Subject to the provisions of Part V of the Act and subject to any other rights attaching to any class of share of the Company under these Articles or otherwise, the Company may:

- 9.1 issue shares which are to be redeemed or are liable to be redeemed at the option of the Company or the shareholders concerned;
- 9.2 purchase its own shares (including any redeemable shares) provided that any such purchase of "A" Ordinary Shares and "B" Ordinary Shares shall be pro rata to the number of such shares in issue on the date of acquisition.

**10. SHARE CERTIFICATES**

In Regulation 6 in Table A there shall be inserted after the word "seal" the following words, namely: "or the official seal of the company".

**11. LIEN**

The Company shall have a first and paramount lien on all the shares registered in the name of any member (whether solely or jointly with others) for all moneys due to the Company from him or his estate, whether solely or jointly with any other person (whether a member or not) and whether such moneys are presently payable or not. The Company's lien on a share shall extend to all dividends or other moneys payable thereon or in respect thereof. The directors may at any time resolve that any share shall be exempt, wholly or partly, from the provisions of this Article.

**12. CALLS ON SHARES**

The directors may accept from any member the whole or any part of the amount remaining unpaid on any share held by him notwithstanding that no part of that amount has been called up.

**13. TRANSFER OF SHARES**

- 13.1 No transfer of any share may be registered without the approval of the directors. The directors may withhold such approval if (but only if) either the share is not fully paid up or the Company has a lien thereon or the transfer has not been effected in accordance with these Articles or the directors are otherwise entitled to withhold such approval under these Articles but the directors shall approve a transfer permitted by these Articles.
- 13.2 The provisions of these Articles shall apply mutatis mutandis to the sale or other disposal of any shares allotted to a member by means of a renounceable letter of allotment or other renounceable document of title. No member shall transfer or agree to transfer the legal or beneficial ownership of any share registered in his name or allotted to him except by means of a transfer and subject to the provisions of Article 14.
- 13.3 The directors shall not recognise a renunciation of the allotment of any share by the allottee in favour of some other person except and to the extent that the renunciation is in favour of a person to whom they may be transferred pursuant to Article 15; and in all cases other than this a Transfer Notice shall be deemed to have been given the day before the date of such renunciation.
- 13.4 The directors may also refuse to register a transfer unless:
- (a) it is lodged duly stamped at the office or at such other place as the directors may appoint and is accompanied by the certificate for the shares to which it relates and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer;
  - (b) it is in respect of only one class of share; and
  - (c) it is in favour of not more than four transferees.
- 13.5 If the directors refuse to register a transfer of a share, they shall within 14 days after the date on which the transfer was lodged with the Company send to the transferor notice of the refusal.
- 13.6 All instruments of transfer which are registered shall be retained by the Company, but any instrument of transfer which the directors refuse to register shall be returned to the person lodging it when notice of the refusal is given.

**14. PRE-EMPTION PROVISIONS**

- 14.1 This Article is subject to the provisions of Articles 15 and 19.1.
- 14.2 References in this Article to "A" Ordinary Shares or "B" Ordinary Shares shall be construed as referring to Ordinary Shares if the "A" Ordinary Shares and "B" Ordinary Shares shall have converted pursuant to Article 5.
- 14.3 The provisions contained in this Article 14.3 relate only to the transfer of "A" Ordinary Shares:
- (a) A member or a person entitled by transmission or otherwise, who intends to transfer shares (the "Vendor") shall give to the Company notice in writing of his intention (the "Transfer Notice"), specifying the shares which he intends to transfer (the "Shares for Sale") and the price per share (the "Sale Price") at which he is prepared to sell the Shares for Sale, or where appropriate, that he is prepared to sell at the Fair Value.
  - (b) The Transfer Notice once given may not be withdrawn. On receipt of the Transfer Notice by the Company the Transfer Notice shall constitute the Company the Vendor's agent for the sale in accordance with the following provisions of this Article.

- (c) On receipt by the Company of a Transfer Notice the Remuneration Committee shall be entitled to determine, subject to the prior written approval of the Special Director, to allocate the Shares for Sale at the Fair Value:
- (i) to a person or persons replacing (directly or indirectly) the Vendor as an employee or director of the Company PROVIDED that such replacement is found within six months of the date of the Transfer Notice; or
  - (ii) to a trust for the benefit of employees or directors; or
  - (iii) a suitable nominee company (pending nomination of a person pursuant to Article 14.3(c)(i)).

Such determination shall be made within 28 days of the date of the Transfer Notice and shall be communicated in writing to the Vendor. If no such determination is made within this period, or if a determination is made and no replacement is found within the period specified in Article 14.3(c)(i), the Shares for Sale shall be offered in accordance with the remaining provisions of this Article. The date of expiry of the said 28 day or three month period, as the case may be, is herein referred to as the "Relevant Date".

- (d) Within seven days of the Relevant Date the Company shall offer the Shares for Sale to the "A" Ordinary Shareholders on the register at the Relevant Date. The offer will invite them to apply for such number of the Shares for Sale as they are respectively prepared to purchase. Every such offer shall be made in writing and shall specify the number of Shares for Sale offered to each "A" Ordinary Shareholder PROVIDED that if the Board considers that the provisions of this Article 14.3 could mean that the offer of the Shares for sale would require a prospectus in accordance with the Public Offers of Securities Regulations 1995, the Board shall (in its absolute discretion) be entitled to devise such other method of offering such Shares which does not require a prospectus. For the avoidance of doubt, such other method may involve the offering of Shares to a limited number of "A" Ordinary Shareholders selected by such method as the Board shall in its discretion think fit.
- (e) Each "A" Ordinary Shareholder shall be entitled to shares as nearly as may be in proportion to the number of the existing issued "A" Ordinary Shares held by him at the date of the offer (the "Proportionate Entitlement"). Each offer shall be accompanied by forms of application for use by the "A" Ordinary Shareholder in accepting his Proportionate Entitlement and in applying for any shares in excess of his Proportionate Entitlement (the "Excess Shares"). Every such offer shall be open for acceptance in whole or in part within 21 days from the date of its despatch. Every form of application completed by a purchasing "A" Ordinary Shareholder pursuant to any such offer shall state whether, in respect of all (but not some) of the shares applied for, the "A" Ordinary Shareholder is prepared to accept the Sale Price or requires the Fair Value to be determined in accordance with Article 14.3(i).
- (f) At the expiration of such 21 days, the directors shall allocate the Shares for Sale, in the following manner:
- (i) if a determination has been made, in accordance with Article 14.3(c);
  - (ii) subject to Article 14.3(f)(i), to each purchasing "A" Ordinary Shareholder there shall be allocated his Proportionate Entitlement or such lesser number of the Shares for Sale for which he may have applied;



- (iii) if the number of any Shares for Sale which remain unallocated is less than the aggregate number of Excess Shares for which applications have been made, the unallocated shares shall be allocated (as nearly as may be) in the proportions which the Excess Share applications bear to one another;
- (iv) if the number of the Shares for Sale which remain unallocated equals or is greater than the aggregate number of shares for which Excess Share applications have been made, each purchasing member who has applied for Excess Shares shall be allocated the number of Excess Shares for which he applied.
- (g) If there remains a balance of Shares for Sale which are unsold after the above procedure has been followed, the directors shall offer these remaining shares to the "B" Ordinary Shareholders and the procedure set out in Article 14.3(d) and 14.3(e) shall be followed with the necessary modification.
- (h) Within seven days of the determination under Article 14.3(c) or the expiry of the last 21 day period in which applications from purchasing members can be made in accordance with this Article, as the case may be, the Company shall notify the Vendor and all purchasing members of the details of the acceptances and applications which have been made and of the allocations made as between purchasing members under this Article. Each purchasing member shall be bound by the terms of any acceptance and application made by him to purchase in accordance with this Article such number of shares are specified therein at the Sale Price or, where such purchasing member has specified that he is not prepared to accept the Sale Price, the Fair Value per share.
- (i) In the case of a determination under Article 14.3(c) or if any purchasing member states in his form of acceptance and application that he is not prepared to accept the Sale Price, the directors shall arrange that the Auditors shall report in writing on the sum, which in their opinion is the fair value (the "Fair Value") of a share comprised in the Shares for Sale (on the basis of a sale and purchase in the open market between a willing seller and a willing purchaser), and such sum shall be deemed to be the fair value thereof unless the Vendor in his Transfer Notice shall have notified the Company that a third party, acting in good faith, is willing to purchase the Shares for Sale at a particular price per share and can demonstrate, to the reasonable satisfaction of the Auditors (such satisfaction to be notified to the Company in writing by the Auditors), the existence of such an offer, when such price shall instead be deemed to be the Fair Value. In reporting on such sum the Auditors shall disregard whether the Shares for Sale constitute a minority interest, shall value the Preference Shares at their par value together with a sum equal to any arrears or accruals of dividend (whether earned or declared or not) thereon and shall otherwise have regard to such criteria as they shall regard as appropriate for the purpose. In so reporting, the Auditors shall be considered to be acting as experts and not as arbitrators and, accordingly, the Arbitration Act 1996 or any statutory re-enactment or modification thereof for the time being in force shall not apply. The cost of obtaining such Auditors' report shall be borne, in the case of a determination under Article 14.3(c), by the Company and in all other cases by those purchasing members who have required a Fair Value to be fixed, in proportion to the number of shares allocated to each such purchasing member.
- (j) Within seven days of the report of the Auditors being received by the Company, the Company shall send a copy thereof to the Vendor and to all purchasing members.
- (k) Any sale of shares effected pursuant to this Article to a purchasing member who has stated that he is prepared to accept the Sale Price shall be at the Sale Price and any sale of shares effected pursuant to this Article under Article 14.3(c) or to a purchasing

member who has required a fair value to be fixed pursuant to Article 14.3(i) shall be at the Fair Value so fixed.

- (l) The Vendor shall be bound, upon payment of the Sale Price or the Fair Value (as the case may be), to transfer the Shares for Sale which have been allocated pursuant to this Article to the persons nominated by the Board pursuant to Article 14.3(c) or to the purchasing members (as the case may be). If, after becoming so bound, the Vendor makes default in transferring any of the Shares for Sale, the Company may receive the purchase money and the Vendor shall be deemed to have appointed any one director or the secretary of the Company as his agent to execute a transfer of Shares for Sale to the purchaser and upon execution of such transfer the Company shall hold the purchase money in trust for the Vendor. The receipt of the Company for the purchase money shall be a good discharge to each purchaser and, after his name has been entered in the register of members of the Company, the validity of the proceedings shall not be questioned by any person.
- (m) If all or any of the Shares for Sale are not accepted by purchasers in accordance with this Article, the Vendor may within six months of the date on which he receives notification of the details of the acceptances and applications by purchasing members under this Article or, when any such purchasing member has required Fair Value to be fixed, within six months after the receipt by the Vendor of a copy of the report of the Auditors under Article 14.3(j) of this Article, transfer all of the Shares for Sale which have not been accepted to any person or persons approved by the Special Director(s) (such approval not to be unreasonably withheld) on a bona fide sale at a price per share not less than whichever is the higher of the Sale Price or the Fair Value (after deduction, where appropriate, of any dividend or other distribution to be retained by the Vendor).

14.4 The provisions in this Article 14.4 relate only to the transfer of Preference Shares and "B" Ordinary Shares:

- (a) The transfer of Preference Shares shall be carried out following the same procedure as in Article 14.3, save as varied below.
- (b) Article 14.3(c) shall not apply. The Shares for sale shall be offered in accordance with Article 14.3(d) within 28 days of the date of receipt of the Transfer Notice to shareholders on the register on that date.
- (c) The Preference Shares shall be offered under Article 14.3(d) above in the first instance only to Preference Shareholders and each Preference Shareholder shall be entitled to receive a proportionate entitlement calculated pro rata by reference to the Preference Shareholder's holding of Preference Shares as against the total of issued Preference Shares. Each Preference Shareholder shall be entitled to apply for Preference Shares in excess of his Proportionate Entitlement.
- (d) If there are Preference Shares not taken up after the expiry of the 21 days under Article 14.4(a), 14.4(b) and 14.4(c), then the balance remaining shall be offered to the members holding "B" Ordinary Shares who shall be entitled to receive a Proportionate Entitlement calculated by reference to their holding of "B" Ordinary Shares to the total of issued "B" Ordinary Shares, but such members may apply for Preference Shares in excess of their Proportionate Entitlement.
- (e) The transfer of "B" Ordinary Shares shall be carried out following the same procedure as in Article 14.4(a), 14.4(b), 14.4(c) and 14.4(d) inclusive save that the order in which they shall be offered shall be:
  - (i) first to the other "B" Ordinary Shareholders;

- (ii) second to the Preference Shareholders.

14.5 For the purpose of ensuring that a transfer of shares is duly authorised or that no circumstances have arisen whereby a Transfer Notice is required to be given hereunder the directors may and shall at the written request of the Specified Majority or a Special Director and at the Company's expense request any member or past member or the personal representative or trustee in bankruptcy, administrative receiver or liquidator or administrator of any member or any person named as transferee in any instrument of transfer lodged for registration to furnish to the Company such information and evidence as the Board may reasonably think fit regarding any matter which they may deem relevant to such purpose. Failing such information or evidence being furnished to the reasonable satisfaction of the Board within 14 days after such request the Board shall be entitled to refuse to register the transfer in question or, if such information or evidence discloses that a Transfer Notice ought to have been given in respect of any shares the Specified Majority or the Special Director, may by notice in writing require that a Transfer Notice be given forthwith in respect of the shares concerned.

14.6 If in any case where under the provisions of these Articles:

- (a) the Specified Majority or a Special Director require a Transfer Notice to be given in respect of any shares; or
- (b) a person has become bound to give a Transfer Notice in respect of any shares;

and such a Transfer Notice is not duly given within a period of two weeks of demand being made or within the period allowed thereafter respectively a Transfer Notice shall be deemed to have been given at the expiration of the said period. In any such case as aforesaid the provisions of this Article shall take effect.

14.7 No share shall be issued or transferred to any bankrupt or person of unsound mind.

14.8 No Manager shall voluntarily transfer any "A" Ordinary Shares or "B" Ordinary Shares for a period of two years from Completion of the Investment Agreement other than in accordance with Article 15.2(c) and 15.2(d).

## 15. **PERMITTED TRANSFERS**

Notwithstanding the provisions of any other Article, but subject to Article 14.8, the transfers set out in this Article 15 shall be permitted without restriction as to price or the requirement to go through the pre-emption procedure in Article 14.

### 15.1 **Permitted transfers by Investors**

- (a) Any transfer by a trustee or nominee for an Investor to another trustee or nominee for the Investor or to the Investor itself.
- (b) Any transfer of any shares in the Company held by an Investor ("Original Transferor") between the Original Transferor and any subsidiary company of the Original Transferor or any holding company of the Original Transferor or another subsidiary of such holding company or between one subsidiary of such holding company and such holding company or any other such subsidiary PROVIDED that if subsequently such transferee ceases to be a subsidiary of the ultimate holding company of the Original Transferor or if the beneficial interest in the shares (or the value thereof) ceases to be owned by such ultimate holding company or any of its subsidiaries, such transferee shall:

- (i) forthwith notify the directors in writing that such event has occurred; and

- (ii) be bound to give a Transfer Notice in respect of such shares.
- (c) Where shares are held by an Investor as a nominee or on trust for one or more beneficial owners any transfer between that Investor and any other nominee or trustee or the beneficial owner for the time being who becomes an Investor.
- (d) Where shares are held by an Investor as a nominee or on trust, whether directly or indirectly, for an approved scheme or schemes as defined in s 612(1) Income and Corporation Taxes Act 1988 any transfer between that member and any other nominee or trustee, whether direct or indirect, for the same approved scheme or schemes.
- (e) Any transfer to a collective investment scheme (or its nominee) managed by an Investor or by Doughty Hanson & Co Limited or a subsidiary from time to time thereof or any other person who becomes a manager or trustee of such a collective investment scheme.
- (f) Any transfer by an Investor to a limited partnership in which the general partner of the partnership is Doughty Hanson & Co Limited or a subsidiary thereof ("a qualifying partnership") or the general partner or a nominee of the qualifying partnership or any transfer thereafter by a qualifying partnership or the general partner or a nominee of such qualifying partnership to the beneficial owner of the shares.
- (g) Any transfer to a nominee formed for the purposes of administering a co-investment scheme of an Investor.
- (h) Any transfer of shares beneficially owned by an Investor (being an individual) or owned by a trustee which is an Investor to:
  - (i) his nominee or from his nominee to another or to the beneficial owner;
  - (ii) the trustees of any Family Trust or any other trustee or nominee of that Family Trust of any other Family Trust;
  - (iii) (in the case of a trustee) the settlor or the beneficiaries of the trust or to the trustee or nominee of any other Family Trust.
- (i) Any transfer by an Investor to any other Investor provided that after any such transfer collective investment schemes managed by Doughty Hanson & Co Limited or a subsidiary thereof (or being a limited partnership of which Doughty Hanson & Co Limited (or a subsidiary thereof) is the general partner) together own 50 per cent. or more of all of the ordinary share capital by the Company.

#### **15.2 Permitted transfers by shareholders who are not Investors**

- (a) Any transfer of shares or the creation or transfer of any interest therein by a trust or other scheme for the benefit of employees or directors to or in favour of an employee or director of the Company or of any of its subsidiaries as approved by the Board.
- (b) Any transfer pursuant to Article 14.3(c).
- (c) Any transfer by a Manager to trustees upon his Family Trust and, on a change of trustees, by such trustees to the new trustees of the same Family Trust PROVIDED that:
  - (i) no such transfer shall be made without prior consultation with the Specified Majority and the Specified Majority shall be provided with copies of the terms of the trust instrument relating to such Family Trust and in particular with the

powers of the trustees pursuant to such instrument, the identity of the proposed trustees and satisfied that no costs incurred in connection with the setting up or administration of the relevant Family Trust are to be paid by the Company; and

- (ii) if and whenever any such shares are to cease to be held upon a Family Trust, the trustees shall be bound to serve a Transfer Notice;
- (d) subject to the prior consultation with the Specified Majority:
  - (i) any transfer to a nominee or trustee for a shareholder and any transfer by any nominee or trustee to any other nominee or trustee or to the beneficiary provided that no beneficial interest in the shares passes by reason of any such transfer; and
  - (ii) any transfer by a shareholder to his Privileged Relation.

### 15.3 Permitted transfers by all shareholders

Any transfer permitted by Article 17 (Change of control) and 18 ( Dragalong).

## 16. COMPULSORY TRANSFERS

- 16.1
  - (a) If an employee or director of the Company or any of its subsidiaries ceases for whatever reason to be such an employee or director without remaining or becoming an employee of the Company or any other subsidiary (as the case may be) (the "Leaving Shareholder"), such employee or director (and any Related Person as defined in Article 16.5) shall be deemed to have given a Transfer Notice at the date of such cessation in respect of all the "A" Ordinary Shares then registered in his or their names. In any such case as aforesaid the provisions of Article 14 shall take effect save that the Sale Price shall be as set out in Article 16.2.
  - (b) If at any time any person (whether or not a member) ceases for whatever reason to be a director or employee of the Company or any of its subsidiaries without remaining or becoming an employee of the Company or any other subsidiary ("Former Employee") and at any time thereafter he or a Related Person becomes the holder of any "A" Ordinary Shares in the Company by virtue of any rights or interests acquired by him whilst he was such director or employee, he shall thereupon be bound to give a Transfer Notice in respect of all such shares in accordance with Article 16.1(a).
- 16.2 The Sale Price for the "A" Ordinary Shares of a Leaving Shareholder and Former Employee and any Related Person of either shall be:
  - (a) in the case of a Good Leaver as specified in Article 16.3 the Fair Value; and
  - (b) in all other cases the higher of the cost of acquisition and a value determined pursuant to the following table:

Date on which Transfer Notice is required to be given	Percentage of Fair Value applicable to transfer
On or prior to first anniversary of Completion	Nil
First - second anniversary of Completion	25 per cent
Second - third anniversary of Completion	50 per cent

Third - fourth anniversary of Completion	75 per cent
On or after fourth anniversary of Completion	100 per cent

PROVIDED that the Sale Price shall be the Fair Value where the Fair Value is lower than the cost of acquisition.

16.3 Subject to Article 16.6, a Leaving Shareholder or Former Employee shall be deemed to be a "Good Leaver" if he/she ceased to be an employee of the Group by reason of:

- (a) his retirement on reaching retirement age in accordance with his terms of employment;
- (b) his death;
- (c) his ill health or permanent disability;
- (d) his redundancy;
- (e) because he is employed by a subsidiary or business of the Company which is sold or otherwise disposed of; or
- (f) his dismissal where such dismissal is found by a tribunal or court of competent jurisdiction to have been unfair or wrongful and such dismissal is not for fraud or dishonesty.

PROVIDED that if the Leaving Shareholder or Former Employee resigned (other than as a result of retirement, ill-health, permanent disability or as a result of constructive dismissal as determined by a tribunal or court of competent jurisdiction), that shall not constitute a reason within this Article 16.3.

16.4 In determining the Fair Value of the A Ordinary Shares to be offered pursuant to Article 16.1, the Company may propose to the Leaving Shareholder or Former Employee a price which if accepted by the Leaving Shareholder or Former Employee shall be deemed to be the Fair Value. In the absence of agreement Fair Value shall be determined in accordance with Article 14.3(i).

16.5 In this Article a "Related Person" is any person who has derived title to any Shares from the Leaving Shareholder or Former Employee pursuant to Article 15.2 and includes the Family Trusts, personal representations and Privileged Relations of the Leaving Shareholder or Former Employee.

## 17. LIMITATION ON TRANSFER OF CONTROL

17.1 No sale or transfer of the legal or beneficial interest in any Shares in the Company may be made or validly registered without the previous consent of the Specified Majority if, as a result of such sale or transfer and the registration thereof a Controlling Interest is obtained or increased in the Company by a person who was not a member of the Company on the date this Article was adopted unless and until the proposed transferee or his nominee (the "Offeror") makes an offer to purchase all the equity shares at not less than a price approved by the Specified Majority with security as to the performance of the obligations of the proposed transferee which is satisfactory to the Specified Majority and on the following terms:

- (a) save as provided in Article 17.1(b) below, the Offer must be conditional only upon the Offeror having received acceptances in respect of the Ordinary Shares (issued or to be issued pursuant to the exercise of the Warrants) which, together with the Ordinary Shares held by the Offeror, will result in the Offeror holding more than 50% by nominal value of such Ordinary Shares;

- (b) the Offer may, if appropriate, be conditional upon notification being received from the Office of Fair Trading that the Secretary of State for Trade and Industry does not intend to refer the proposed acquisition by the Offeror to the Monopolies and Merger Commission and no government or governmental, quasi governmental, supranational, statutory or regulatory body, court, trade agency, association, institution or professional or environmental body or other person or body in any jurisdiction deciding or threatening to take action in relation to the Offer;
  - (c) the Offer must be open for acceptances for a period of not less than 21 days and not more than 60 days;
  - (d) the Offeror must offer in cash £1 only per share for all of the Preference Shares together with all arrears and accruals of dividend and take into account the issue of "B" Ordinary Shares (if any) pursuant to the exercise of the Warrants;
  - (e) the Offer must be in cash, or have a cash alternative, and must value each "A" Ordinary Share and each "B" Ordinary Share equally.
- 17.2 For the purpose of this Article the expressions "transfer" and "transferee" shall include respectively the renunciation of a renounceable letter of allotment and the renounee under any such letter of allotment.
- 17.3 If the Offer becomes unconditional in all respects Shares may be transferred to the Offeror without going through the procedures laid down in Article 14 PROVIDED that the Offeror completes at the same time the purchase of all the shares in respect of which the Offer is accepted.
- 17.4 The Specified Majority may only approve a disapplication of Article 17.1, where the Shares being sold or transferred are held by funds managed by Doughty Hanson & Co Limited if the holders of a majority of the "A" Ordinary shares agree in writing.
18. **DRAGALONG RIGHTS**
- 18.1 If a proposed transferee of shares in the Company or his nominee or agent receives (within a period of 21 days of making the first of any offers hereinafter mentioned) acceptances of offers made to all members of the Company (on terms which comply with Article 17.1 and which are not made by Doughty Hanson & Co Limited or any person connected with Doughty Hanson & Co Limited for the purposes of Section 839 of the Income and Corporation Taxes Act 1988) which will (ignoring the pre-emption rights, if any, held by other members) result in such transferee or his nominee owning not less than the 75 per cent of the equity shares then such proposed transferee or his nominee shall extend such offers on the terms set out in Article 18.2.
- 18.2 The terms of the extension are that such transferee or his nominee shall give written notice to those members who have not accepted such offers applicable to them requiring them so to do. Upon the giving of such notice each non-accepting member shall:
- (a) be deemed to have accepted the same in respect of all shares held by him in accordance with the terms of the offer applicable to him and to have irrevocably waived any pre-emption rights he may have in relation to the transfer of any of such shares; and
  - (b) become obliged to deliver up to such transferee or his nominee an executed transfer of such shares and the certificate(s) in respect of the same together with an executed waiver of all such pre-emption rights.

18.3 If any such non-accepting member as is referred to in Article 18.2 shall not, within 14 days of becoming required to do so, execute transfers in respect of the shares held by such member and pre-emption waivers in respect of other relevant shares, then the directors shall be entitled to, and shall, authorise and instruct such person as they think fit to execute the necessary transfer(s) on his behalf and, against receipt by the Company (on trust for such member) of the purchase moneys payable for the relevant shares, deliver such transfer(s) and pre-emption waivers to the proposed transferee or his nominee and register such transferee or his nominee as the holder thereof, and after such transferee or his nominee has been registered as the holder the validity of such proceedings shall not be questioned by any person.

18.4 Any transfer pursuant to this Article shall not be subject to the pre-emption provisions of Article 14.

## 19. TRANSMISSION OF SHARES

19.1 Regulations 29 to 31 shall apply, with the following modifications:

(a) The personal representatives of the deceased (where he was a sole holder or only survivor of joint holders) shall be entitled to be registered as the holder of the shares held by the deceased without restriction as to price or the requirement to go through the pre-emption procedure in Article 14. Any instrument of transfer executed by the personal representatives in accordance with regulation 30 shall be subject to Article 14 unless the transfer is permitted under Article 15.

(b) The person entitled to a share in consequence of the death or bankruptcy of a holder shall be bound to give a Transfer Notice in respect of all the Shares then registered in the name of the deceased or bankrupt holder:

(i) in the circumstances set out in Article 16; and/or

(ii) at any time, if and when called to do so in writing by the Specified Majority.

## 20. ALTERATION OF SHARE CAPITAL

The provisions of regulations 32, 33, 34 and 36 of Table A shall take effect subject to the provisions of Article 6.

## 21. GENERAL MEETINGS

21.1 Every notice convening a general meeting shall comply with the provisions of s 372(3) of the Act as to giving information to members in regard to their right to appoint proxies; and notices of and other communications relating to any general meeting which any member is entitled to receive shall be sent to the directors for the time being of the Company and the Auditors.

21.2 A poll may be demanded by any member present in person or by proxy or (being a corporation) by its duly authorised representative. Regulation 46 in Table A shall be construed accordingly.

## 22. VOTES OF MEMBERS

The instrument appointing a proxy shall be in writing in any usual or common form and shall (except in the case of an appointment by telex or a facsimile copy of an appointment otherwise complying with the requirements of this Article) be executed by the appointor or his attorney duly authorised in writing or in such other form as the directors may approve. A proxy need not be a member of the Company.

## 23. PROXIES



The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is executed, or a notarially certified copy of such power or authority, shall be deposited or received at the registered office (or at such other place in the United Kingdom as is specified for that purpose in any instrument of proxy sent by the Company in relation to the meeting) not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or handed to the chairman of the meeting or adjourned meeting, and, in default, the instrument of proxy shall be invalid.

**24. WRITTEN RESOLUTION**

Subject to the provisions of the Act, a resolution in writing signed by all the members of the Company who would be entitled to receive notice of and to attend and vote at a general meeting, or by their duly appointed proxies or attorneys, shall be as valid and effectual as if it had been passed at a general meeting of the Company duly convened and held. Any such resolution may be contained in one document or in several documents in the same terms each signed by one or more of the members or their proxies or attorneys, and signature in the case of a body corporate which is a member shall be sufficient if made by a director or the secretary thereof or by its duly authorised representative.

**25. DIRECTORS**

- 25.1 Unless and until otherwise determined by special resolution of the Company the number of directors shall not be less than two nor more than eight. Regulation 64 in Table A shall not apply to the Company.
- 25.2 A director shall not require a share qualification but shall be entitled to attend and speak at any general meeting of the Company and at any separate meeting of the holders of any class of shares in the capital of the Company.

**26. SPECIAL DIRECTOR**

- 26.1 The holders of 51% in nominal value of the issued "B" Ordinary Shares shall be entitled by notice in writing addressed to the Company from time to time to appoint as a director of the Company any one person (the "Special Director") and may remove from office any person so appointed and to appoint another person in his place by such written notice.
- 26.2 Any Special Director appointed pursuant to Article 26.1 above, shall be entitled to all notices and voting rights and in all other respects be treated as the other directors of the Company, save that the remuneration of the Special Director shall be at such fee as is agreed between the persons appointing him and the directors.
- 26.3 On any resolution pursuant to s 303 of the Act or Article 29 hereof for the removal of a Special Director the Specified Majority present at such meeting shall together have twice as many votes as all other Shareholders voting on such resolution.
- 26.4 If so required by his appointor, a Special Director shall be appointed a director of any or all the subsidiaries of the Company and the provisions of these Articles relating to the conduct of the business of the Company and the holding of meetings of the board of directors of the Company shall be deemed to apply mutatis mutandis to such subsidiaries to which a Special Director is appointed and the Company shall procure such appointment and observance of this Article 26.4.
- 26.5 Any Special Director shall be entitled to report back to his appointors upon the affairs of the Company and its subsidiaries and to disclose such information as he shall reasonably consider appropriate to them.

- 26.6 For so long as any Investor is entitled to appoint a Special Director but has not exercised such right such Investor shall be entitled from time to time to appoint any person (an "Observer") to attend meetings of the board of directors of the Company, including committees thereof and meetings of the boards of directors of subsidiaries of the Company and committees of such boards. An Observer shall be given (at the same time as the directors) notice of all such meetings of the directors and all agendas, minutes and other papers relating to such meetings. Observers shall be entitled to speak at such meetings and to require that business be upon the agenda for any such meeting but shall not in any circumstances be entitled to vote. The Company shall reimburse all expenses of the Observer properly incurred in performance of his functions whether such functions are performed in respect of the Company or one of its subsidiaries.

27. **BORROWING POWERS**

Subject as hereinafter provided the directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking, property and uncalled capital, and to issue debentures and other securities, whether outright or as collateral security, for any debt, liability or obligation of the Company or of any third party.

28. **QUALIFICATION OF DIRECTORS**

- 28.1 In addition to the provisions of Regulation 81, the office of a director shall also be vacated if:

- (a) he becomes of unsound mind;
- (b) he is removed under Article 26, being a Special Director.

- 28.2 Any person may be appointed or elected as a director, whatever his age, and no director shall be required to vacate his office by reason of his attaining or having attained the age of 70 years or any other age.

29. **REMOVAL OF DIRECTORS**

In addition and without prejudice to the provisions of s 303 of the Act, the Company may by extraordinary resolution remove any director before the expiration of his period of office and may by ordinary resolution appoint another director in his stead.

30. **ALTERNATE DIRECTORS**

A director may at any time appoint any other person (whether a director or member of the Company or not) to act as alternate director at any meeting of the directors at which the director is not present, and may at any time revoke such appointment. The appointment of any person who is not already a director as an alternate shall require the prior approval of the Board, except the case of an alternate for a Special Director. An alternate director so appointed shall not be entitled as such to receive any remuneration from the Company but shall otherwise be subject to the provisions of Table A and of these Articles with regard to directors. An alternate director shall be entitled to receive notice of all meetings of the directors and to attend and vote as a director at any such meeting at which the director appointing him is not personally present, and generally to perform all the functions, rights, powers and duties of the director by whom he was appointed. An alternate director shall ipso facto cease to be an alternate director if his appointor ceases for any reason to be a director. Where a director who has been appointed to be an alternate director is present at a meeting of the directors in the absence of his appointor such alternate director shall have one vote in addition to his vote as director. Every appointment and revocation of an alternate director shall be made by instrument in writing under the hand of the director making or revoking such appointment and such instrument shall only take effect on the service thereof at the registered office of the Company.

**31. REMUNERATION OF DIRECTORS**

The directors shall be entitled to the remuneration which the Board shall approve. Any director who serves on any committee, or who devotes special attention to the business of the Company, or who otherwise performs services which in the opinion of the Board are in addition to or outside the scope of the ordinary duties of a director (which services shall include, without limitation, visiting or residing abroad in connection with the Company's affairs), may be paid such extra remuneration by way of salary, percentage of profits or otherwise as the directors shall approve.

**32. DIRECTORS' AND EMPLOYEES' GRATUITIES AND PENSIONS**

32.1 Subject to the Investment Agreement, the directors may:

- (a) establish and maintain, or procure the establishment and maintenance of any share option or share incentive or profit sharing schemes or trusts or any non-contributory or contributory pension or superannuation schemes or funds for the benefit of, and may make or give or procure the making or giving of loans, donations, gratuities, pensions, allowances or emoluments (whether in money or money's worth) to, or to trustees on behalf of, any persons who are or were at any time in the employment of the Company, or of any company which is a subsidiary of the Company, or is allied to or associated with the Company or with any such subsidiary, or who are or were at any time directors or officers of the Company or of any such other company as aforesaid, and to the wives, husbands, widows, widowers, families and dependants of any such persons;
- (b) establish and subsidise or subscribe to any institutions, associations, clubs or funds calculated to be for the benefit of, or to advance the interests and well-being of the Company, or of any such other company as aforesaid or of any such persons as aforesaid;
- (c) make payments for or towards policies of assurance on the lives of any such persons and policies of insurance of or in respect of any such persons (including insurance against their negligence) as aforesaid;
- (d) pay, subscribe or guarantee money to or for any charitable or benevolent objects, or for any exhibition, or for any political, public, general, or useful object; and
- (e) do any of the above things either alone or in conjunction with any such other company as aforesaid.

32.2 Subject always if the Act shall so require to particulars with respect to the proposed payment being disclosed to the members of the Company and to the payment being approved by the Company in general meeting, any director shall be entitled to participate in and retain for his own benefit any such loan, donation, gratuity, pension, allowance or emolument.

**33. PROCEEDINGS OF DIRECTORS**

In Regulation 88 in Table A there shall be substituted for the third sentence the following sentences namely: "All directors shall be given notice of every meeting of the directors. Any director or alternate director may by notice to the Company waive his right to receive notice of the meeting and the presence of any director or alternate director at the commencement of a meeting shall constitute such waiver by him".

34. **QUORUM**

34.1 The quorum for meetings of the directors shall be two one of whom must be a Special Director (if appointed) or his alternate.

34.2 For the purpose of determining whether a quorum exists for the transaction of the business of the board of directors:

- (a) in the case of a resolution agreed by directors in telephonic or audio-visual communication with one another, all such directors shall be counted in the quorum and any resolution so agreed shall be as valid and effective as if passed at a meeting of the board of directors duly convened and held;
- (b) in the case of a meeting of the board of directors, in addition to the directors present at the meeting, any director in telephonic or audio-visual communication with such meeting shall be counted in the quorum and entitled to vote; and
- (c) any person attending a meeting of the board, or in telephonic or audio-visual communication with such a meeting, who is acting as an alternate director for one or more directors shall be counted as one for each of the directors for whom he is so acting and, if he is a director, shall also be counted as a director, but not less than two individuals, whether both present at the meeting or in telephonic or audio-visual communication with each other, can be a quorum.

35. A resolution in writing of all the directors or all the members of a committee of directors shall be as effectual as if it had been passed at a meeting of directors or (as the case may be) a committee of directors duly convened and held either:

- (a) if it consists of an instrument executed by or on behalf of each such director or committee member; or
- (b) if it consists of several instruments in the like form each either:
  - (i) executed by or on behalf of one or more of such directors or committee members; or
  - (ii) sent by or on behalf of one or more of such directors or committee members by telex or facsimile transmission and deposited or received at the office or received by the secretary,

and any such instrument executed or sent by or on behalf of an alternate director shall be deemed to have been duly executed or sent (as the case may be) by or on behalf of his appointor.

36. Subject to any requisite declaration of interest in accordance with the provisions of the Act and (if applicable) Regulation 85 in Table A having been made by him, a director may vote as a director in regard to any transaction or arrangement in which he is interested, or upon any matter arising therefrom and Regulations 94 and 95 in Table A shall be construed subject to this provision.

37. In Regulation 97 In Table A:

- (a) there shall be inserted after the words "the appointment" the following words, namely: "or the terms of appointment"; and

- (b) the following words shall be deleted, namely: "and be counted in the quorum" and there shall be inserted after the words "his own appointment" the following words, namely: "and shall be counted in the quorum in respect of each resolution including that concerning his own appointment".

**38. MINUTES**

38.1 The directors shall cause minutes to be made in books kept for the purpose:

- (a) of all appointments of officers and alternate directors made by the directors; and
- (b) of all proceedings at meetings of the Company, of the holders of any class of shares in the Company of the directors, and of committees of directors, including the names of the persons present at each such meeting.

**39. DIVIDENDS**

Regulations 102 to 105 (inclusive) of Table A shall be subject to Article 5.

**40. THE SEAL**

The Company is authorised pursuant to s 39 of the Act for so long as its objects require or comprise the transaction of business in foreign countries to have an official seal for use in any territory, district or place elsewhere than in the United Kingdom.

**41. INDEMNITY**

- 41.1 Every director or other officer of the Company shall be entitled to be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under s 727 of the Act in which relief is granted to him by the Court and no director or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the execution of the duties of his office or in relation thereto. But this Article shall only have effect in so far as its provisions are not avoided by s 310 of the Act.
- 41.2 Without prejudice to the provisions of Article 41.1 the directors shall have power to purchase and maintain insurance for or for the benefit of any persons who are or were at any time directors, officers or employees or auditors of the Company, or of any other company which is its holding company or in which the Company or such holding company or any of the predecessors of the Company has any interest whether direct or indirect or which is in any way allied to or associated with the Company, or of any subsidiary undertaking of the Company or of any such other company, or who are or were at any time trustees of any pension fund in which employees of the Company or of any such other company or subsidiary undertaking are interested, including (without prejudice to the generality of the foregoing) insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported execution and/or discharge of their duties and/or in the exercise or purported exercise of their powers and/or otherwise in relation to their duties, powers or offices in relation to the Company or any such other company, subsidiary undertaking or pension fund.